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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WASHINGTON

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 14, 2019

SEAN F. MCAVOY, CLERK

KEVIN N.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 1:17-CV-3184-JTR

ORDER DENYING MOTION FOR
SUBSTITUTION OF PARTY
WITHOUT PREJUDICE

BEFORE THE COURT is Plaintiff counsel's motion for substitution of party. ECF No. 21. Counsel requests that the Court substitute Tammi Purdy as the Plaintiff in this action in place of her deceased brother, Kevin N., the currently named plaintiff. ECF No. 21.

Plaintiff filed this disability appeal case on October 23, 2017. ECF No. 1, 4. The pending motion indicates Kevin N. died on or about August 13, 2018. ECF No. 21 at 1; ECF No. 21-1. If a claimant dies before receiving disability benefits to which he or she is entitled, the claimant's surviving spouse becomes the real party in interest. 20 C.F.R. § 404.503(b)(1). If there is no qualifying surviving spouse, then the child or children of the deceased shall become the real party in interest. 20 C.F.R. § 404.503(b)(2). If there are no children, then the real party in interest becomes the parent or parents of the deceased individual. 20 C.F.R. § 404.503(b)(3).

Although there is a method for a sibling to be eligible to become the real party in interest, *see* 20 C.F.R. § 404.503(b)(7), (d), counsel has provided no documentation to demonstrate Plaintiff's sister is suitable to be the real party in interest in this matter (i.e., that she is the only living heir of Plaintiff).

1 Accordingly, Plaintiff's motion for substitution of party, **ECF No. 21**, is
2 **DENIED WITHOUT PREJUDICE.**

3 **IT IS SO ORDERED.** The Clerk of the Court is directed to enter this order
4 and furnish copies to counsel.

5 DATED January 14, 2019.

A handwritten signature in black ink, appearing to be "M" followed by a stylized flourish, is positioned above a horizontal line.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE